REMARKS

The present response is intended to be fully responsive to the rejection raised in the Office action, and is believed to place the application in condition for allowance. Further, the Applicants do not acquiesce to any portion of the Office Action not particularly addressed. Favorable reconsideration and allowance of the application is respectfully requested.

In the Office action, the Office noted that claims 1-10 are pending and rejected. Applicants previously amended claims 1 and 8. Applicants has not introduced by way of the foregoing amendments.

In view of the following discussion, the Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. § 103. Thus, Applicants believe that all of these claims are now in condition for allowance.

REJECTION

The Office rejected claims 1-3, 8, 9, 13 and 14 under 35 U.S.C. § 103(a) as being unpatentable over *Lavelle* in view of in view of U.S. Patent No. 2001/0024235 issued to Kinjo et al. (hereon after "*Kinjo*"), and claims 10-12, 15 and 16 in further view of U.S. Patent Publication No. 2004/0075743 published to Chatani et al. (hereon after "*Chatani*"), and claims 10-12 in view of *Lavelle* in further view of *Chatani.*

As the Examiner is aware, to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claimed limitations. The teaching or suggestions to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F. 2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Furthermore, as the Office is also aware, the courts have repeatedly stated that a prior art reference must be considered in its entirety, i.e., as a whole, including

portions that would lead away from the claimed invention. *W.L. Gore & Associates, Inc. V. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983).

In the Office Action, the Office insinuated that *Lavelle* and *Kinjo* discloses all the elements recited in claim 1. Claim 1 recites a combination of elements directed to a digital camera. The combination of elements includes "wherein the simulation simulates the actual image acquisition without actually acquiring the image to get the attention of a subject being captured in the image and the actual image acquisition captures the image immediately following the simulation." [Emphasis Added]

The Office indicated that *Lavelle* is devoid from disclosing all the elements of claim 1. The Office also indicated that *Kinjo* "discloses two or more acquisition simulated optical image acquisition (Kinjo, fig. 8A, paragraph [0200], wherein the countdown state of a timer show various counting for the timer).

Kinjo discloses "a character of a specific popular animation is displayed or reproduced on the image display subsection 72b disposed on the front surface 62b of the camera housing 62 in order to attract the interest of the subject in the direction of the camera 60 so that a picture of the image having the desired composition can be taken." However, Applicants submit that *Kinjo* is devoid from disclosing "wherein the simulation simulates the actual image acquisition without actually acquiring the image to get the attention of a subject being captured in the image and the actual image acquisition captures the image immediately following the simulation," as recited in claim 1. *Kinjo* merely displays "character of a specific popular animation" to "attract the interest of the subject," which does not suggest or disclose "simulates the actual image acquisition without actually acquiring the image to get the attention of a subject being captured...."

Lavelle discloses a "two stage shutter release button" that allows a photographer to press "the shutter release 70 half way (first stage of the two stage shutter release), step 120, to indicate the scene is framed in the desired manner and that they are waiting for the correct instant to capture the image." *Lavelle*, at paragraph [0027] and [0028]. *Lavelle* discloses a two stage in which the "camera is turned on and an initialization process is performed to get the camera ready, step 100 [and the] time period for compensation of the photographer's lag is selected, step 10." *Id. Kinjo,* on the other hand, discloses a "camera position display portion for displaying portion for displaying the position camera at which a to-be-

photographed person looks at the time of photographing by the camera...." *Kinjo*, at Abstract.

Thus, *Lavelle* and *Kinjo*, alone and in combination, are devoid from disclosing "wherein the simulation simulates the actual image acquisition without actually acquiring the image to get the attention of a subject being captured in the image and the actual image acquisition captures the image immediately following the simulation," as recited in claim 1. Thus, Applicants submit that *Lavelle* and *Kinjo*, alone and in combination, do not teach all the elements recited in claim 1. The Applicants submit that *Lavelle* and *Kinjo*, alone and in combination, do not deem claim 1 obvious. Hence, Claim 1, in view of *Lavelle* and *Kinjo*, alone and in combination, satisfies the requirements of 35 U.S.C. § 103(a) and is in condition for allowance.

Claims 2-3, 8, 9, 13 and 14 depend directly from claim 1, and necessarily contain each and every element recited in their respective claim. Since the Applicants submit that *Lavelle* and *Kinjo*, alone and in combination, do not deem claim 1 obvious, the Applicants further submit that *Lavelle* and *Kinjo*, alone and in combination, also do not deem claims 2-3, 8, 9, 13 and 14 obvious.

The Applicants note that the Office cited *Lavelle* and *Kinjo* for the proposition that it teaches all of the elements of independent claim 1, from which the dependent claims 2, 3, 8, 9, 13 and 14 ultimately depend. The Applicants also note that the Office only cited *Chatani* with respect to the subject matter claimed in the dependent claims 10-12, 15 and 16.

Given that each of the dependent claims 2-3, 8, 9, 13 and 14 depend, directly or indirectly, from either independent claim 1, each necessarily includes all the elements of their respective independent claim. Since *Lavelle* and *Kinjo*, alone and in combination, do not teach all the elements of the independent claim 1 and since the Office only cited *Chatani* with respect to the subject matter claimed in the dependent claims 2-3, 13 and 14, the Applicants, therefore, submit that *Lavelle* and *Kinjo* and *Chatani*, alone and in combination, do not teach all the elements or render claims 1 and 8 obvious. Thus, the Applicants further submit that *Lavelle* and *Kinjo* and *Chatani*, alone and in combination, do not render each of the dependent claims 2-3, 13 and 14, depending from either claim 1, obvious under 35 U.S.C. §103(a).

The Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-16.

CONCLUSION

In view of the foregoing, the Applicants submit that none of the claims presently in the application are obvious under the provisions of 35 U.S.C. §103. Consequently, the Applicants believe that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Office believes that any unresolved issues still exist or if, in the opinion of the Office, a telephone conference would expedite passing the present application to issue, the Office is invited to call the undersigned attorney directly at 972-917-4365 or the office of the undersigned attorney at 972-917-5352 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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